

# PATENT COOPERATION TREATY

**PCT**

*CORRECTED VERSION*

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 27 FEB 2006

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Applicant's or agent's file reference 53982/312843	<b>FOR FURTHER ACTION</b>		See Form PCT/IPEA/416
International application No. PCT/US2005/005120	International filing date (day/month/year) 16.02.2005	Priority date (day/month/year) 20.02.2004	
International Patent Classification (IPC) or national classification and IPC B60R21/16			
Applicant ZODIAC AUTOMOTIVE US INC. et al			

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
  - a.  *(sent to the applicant and to the International Bureau)* a total of sheets, as follows:
    - sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
    - sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
  - b.  *(sent to the International Bureau only)* a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items:
  - Box No. I Basis of the opinion
  - Box No. II Priority
  - Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
  - Box No. IV Lack of unity of invention
  - Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - Box No. VI Certain documents cited
  - Box No. VII Certain defects in the international application
  - Box No. VIII Certain observations on the international application

Date of submission of the demand  16.11.2005	Date of completion of this report  23.02.2006
Name and mailing address of the international preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer  Douhet, H Telephone No. +49 89 2399- 

**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

International application No.  
PCT/US2005/005120

**Box No. I Basis of the report**

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
  - This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
    - international search (under Rules 12.3 and 23.1(b))
    - publication of the international application (under Rule 12.4)
    - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements\*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

**Description, Pages**

1-7 as originally filed

**Claims, Numbers**

1-16 as originally filed

**Drawings, Sheets**

1/6-6/6 as originally filed

a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3.  The amendments have resulted in the cancellation of:
  - the description, pages
  - the claims, Nos.
  - the drawings, sheets/figs
  - the sequence listing (*specify*):
  - any table(s) related to sequence listing (*specify*):
4.  This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
  - the description, pages
  - the claims, Nos.
  - the drawings, sheets/figs
  - the sequence listing (*specify*):
  - any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT  
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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Yes:	Claims	
	No:	Claims	1,8,14
Inventive step (IS)	Yes:	Claims	
	No:	Claims	1,8,14
Industrial applicability (IA)	Yes:	Claims	1-16
	No:	Claims	

**2. Citations and explanations (Rule 70.7):**

**see separate sheet**

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**Re Item V.**

- 1 Reference is made to the following documents:  
D1 : EP 0 924 122 A (TAKATA VEHICLE SAFETY TECHNOLOGY GMBH) 23 June 1999 (1999-06-23)  
D2 : DE 200 16 471 U1 (TRW OCCUPANT RESTRAINT SYSTEMS GMBH & CO. KG) 22 February 2001 (2001-02-22)
- 2 INDEPENDENT CLAIM 1
  - 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.  
Document D1 discloses (the references in parentheses applying to this document):  
a Protective device for an occupant of a vehicle comprising an inflatable cushion (50) having first and second portions (70,72), the first portion (72) being above the second portion (70) when the vehicle is upright, and in which inflation of the second portion (70) commences before (see the position of the inflator 26) inflation of the first portion (72).
  - 2.2 For the sake of completeness, the document D2 seems also to disclose the subject-matter of claim 1.
- 3 INDEPENDENT CLAIM 8
  - 3.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 8 is not new in the sense of Article 33(2) PCT.  
Document D1 discloses (the references in parentheses applying to this document):  
a protective device comprising :
    - a inflator (26);
    - an inflatable curtain (50) in fluid communication with the inflator and comprising :
      - ☞ a first inflatable portion (70) comprising material that decreases in length when inflation occurs (see description, column 5, line 39); and
      - ☞ a second inflatable portion (72) ; and
    - a cover (see description, column 4, line 35); in which the inflatable

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curtain is positioned when uninflated.

- 3.2 For the sake of completeness, the document D2 seems also to disclose the subject-matter of claim 8.

**4 INDEPENDENT CLAIM 14**

- 4.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 14 is not new in the sense of Article 33(2) PCT (see the argumentation point 2.1 of this communication).
- 4.2 For the sake of completeness, the document D2 seems also to disclose the subject-matter of claim 14.

**5 DEPENDENT CLAIMS 2-7, 9-13, 15, 16**

Dependent claims 2-7, 9-13, 15, 16 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT).

- 6 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1-D2 is not mentioned in the description, nor are these documents identified therein.
7. Independent claims 1,8,14 are not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate.
8. The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).
- 9 Although claims 1 and 14 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought or in respect of the terminology used for the features of that subject-matter. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.